

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14030, of Mary T. O'Donoghue, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7106.11 to change a nonconforming use from dry cleaning and pressing, no more than five employees, first floor, to beauty salon, first floor in an R-4 District at premises 1319 Constitution Avenue, N.E., (Square 1034, Lot 816).

HEARING DATE: September 28, 1983

DECISION DATE: September 28, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the south side of Constitution Avenue between 13th and 14th Streets, N.E. and is known as premises 1319 Constitution Avenue, N.E. It is in an R-4 District.

2. The subject site is rectangular in shape with 22.0 feet of frontage on Constitution Avenue and a depth of 115.0 feet. To the rear of the site is located a fifteen to twenty foot wide public alley.

3. The site is improved with a small, one story brick structure with two large bay windows overlooking Constitution Avenue. The structure is now vacant.

4. The prior use of the structure was for dry cleaning and pressing, no more than five employees, pursuant to Certificate of Occupancy No. B128146, dated April 12, 1982. Such use is a nonconforming use in the R-4 District.

5. Mr. Rudolph Evans, contract purchaser of the site, proposes to change the former nonconforming use to a beauty salon.

6. The subject contract purchaser now operates a beauty salon some six blocks distant from the subject site.

7. In addition to residential use, which is the predominant land-use in the area, the 1300 block of Constitution Avenue contains three churches, two of which are housed in former residential structures. There is also a liquor store located on the south side of the street approximately six structures removed from the subject structure. For the most part, the residential uses are

contained within row structures and include single family dwellings, flats, and apartment houses.

8. Paragraph 7106.11 of the Zoning Regulations provides that a nonconforming use may be changed to a use which is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right.

9. Through vacant since May, the most recent nonconforming use of the subject premises was a dry cleaning establishment. A laundry or dry cleaning establishment not exceeding 2,500 square feet of gross floor area is first permitted as a matter-of-right in a C-1 District. The proposed nonconforming beauty salon is likewise first permitted as a matter-of-right in a C-1 District.

10. The proposed beauty salon will not adversely affect the present character or future development of the surrounding area. The surrounding area is characterized for the most part by residential uses, with churches and small scale nonconforming uses interspersed among the residential uses.

11. The proposed beauty salon will operate Monday through Saturday from 9:00 A.M. to 6:00 P.M. The maximum number of employees will be five. The applicant anticipates that each technician will service one customer per hour, for a maximum customer flow of twenty-four to thirty-two customers daily.

12. There will be few, if any, deleterious external effects associated with the proposed beauty salon. Since the bulk of the customers will come from the surrounding area, most will travel by mass transit or foot to the site. The number of vehicles coming to the site will also be minimized by the hiring of operators from the neighborhood. Those customers and operators choosing to drive to the site may find parking a problem since there is no on-site parking available. None is required under the Zoning Regulations. On-street parking conditions in general on Capitol Hill are poor.

13. The proposed use is one that caters to the neighborhood. The customers and staff will come from the neighborhood. The Board finds that the proposed use is a neighborhood facility.

14. The applicant has not decided on the specific dimensions or type of sign advertising the proposed use. The Board, as hereinafter stated, will condition the approval of this application to limit the type of sign used.

15. The Office of Planning, by report dated September 21, 1983, recommended that the application be approved with conditions. The Office of Planning was of the opinion that

with conditions, the impact of the proposed beauty salon upon surrounding residential uses would be minimized and the integrity of the Zoning Regulations maintained. Accordingly, the Office of Planning recommended that the following conditions be imposed:

- a. The hours of operation shall be limited to 9:00 A.M. to 6:00 P.M. Monday thru Saturday.
- b. The number of employees shall be limited to not more than five.
- c. There shall be no neon, fluorescent or gas tube lighting on the building facade nor shall interior displays utilizing such materials be visible from the exterior portions of the premises.

The Board concurs with the recommendation of the Office of Planning.

16. The Capitol Hill Restoration Society, by letter of September 16, 1983, reported that the Society voted to support the application. It heard from the prospective purchaser of the property and prospective operator of the salon at its Zoning Committee meeting on September 8, 1983. The operator argued convincingly that the proposed new salon, and another salon which he operates on G Street, S.E. can indeed be considered community uses, which do not produce any negative impact on their respective neighborhoods. The Society further reported that an informal survey was made of neighbors in the area of the proposed new salon, the 1300 block of Constitution Avenue, N.E. The results of the survey convinced the Society that there was no significant opposition to the application from neighbors. Some neighbors did say that the commercial intrusion on their block, there being several stores in the row adjacent to 1319, was undesirable, and that they wished the properties could somehow be returned to residential use. The Society noted this seems unlikely to happen any time soon, however, due to the types of structures in the row, very obviously built for commercial use, and to the presence of an unattractive but very successful liquor store at 1333 Constitution Avenue. The only other concern which was expressed was caused by a rumor that the proposed new use somehow involved video games. Since there is a school in the immediate neighborhood, there was understandably some concern over such an idea. However, the prospective owner, Mr. Evans, reassured the Society that there was no basis to this report and that he intended to operate only a beauty salon on the premises. The Board concurs in the recommendation of the Capitol Hill Restoration Society.

17. Advisory Neighborhood Commission 6A filed no recommendation on the application.

18. There was no opposition to the application at the Public Hearing on file.

CONCLUSIONS OF LAW AND OPINION:


Based on the record the Board concludes that the he applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of 7106.11 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met his burden of proof and that the requirements of Paragraph 7106.11 are met. The proposed use is permitted in the most restrictive district in which the previous use was permitted. The proposed use will be a neighborhood facility, and will not create any deleterious external effects. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The hours of operation shall not exceed from 9:00 A.M. to 6:00 P.M., Monday through Saturday.
2. The number of employees shall be limited to not more than five.
3. There shall be no neon, flourescent or gas tube lighting on the building facade nor shall interior displays utilizing such materials be visible from the exterior portions of the premises.

VOTE: 4-0 (Maybelle Taylor Bennett, Carrie L. Thornhill, William F. McIntosh and Douglas J. Patton to grant, Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

NOV 18 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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